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GOVERNOR

CONROY CHINO  
SECRETARY

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STATE OF NEW MEXICO  
DEPARTMENT OF LABOR

January 29, 2003

*Alfonso*  
*This is already in process right?*  
*John*

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Mr. Joseph Juarez  
Regional Administrator  
U.S. Department of Labor  
525 Griffin St., Room 317  
Dallas, Texas 75202

Dear Mr. Juarez:

The New Mexico Department of Labor, the State operating entity for the Workforce Investment Act of 1998, is requesting a waiver to eliminate the 20% limitation on transferring WIA funds between Adult and Dislocated Worker Programs. The waiver request is enclosed and complies with WIA § 189(i)(4)(B) (29 USCA § 2939(i)(4)(B)) and WIA Regulations at 20 CFR § 661.420(c).

Granting this waiver will allow New Mexico the opportunity to provide local Workforce Boards with unlimited ability to transfer funds between the Adult and Dislocated Worker programs, allowing more flexibility in meeting the unique needs of New Mexico's workforce.

New Mexico fully supports the WIA concepts of program accountability and consumer choice. This waiver will help NMDOL to better meet these goals. If the waiver request is granted, Local Boards will be better able to respond to change by increasing local control for program delivery, employer evaluation and system-wide accountability. Providing greater flexibility to local boards will allow them to meet the needs of New Mexico's diverse population.

If you or your staff have any questions concerning the waiver request, please do not hesitate to contact me.

Very truly yours,

Conroy Chino,  
Secretary

Enclosure: Waiver

cc. Maxine Bradley  
John Rincon  
Barbara Vail

"AN EQUAL OPPORTUNITY EMPLOYER"

**STATE OF NEW MEXICO  
WAIVER REQUEST  
WORKFORCE INVESTMENT ACT**

**Requesting Transfer of WIA Funds between Adult and Dislocated  
Worker Programs**

**Submitted January 27, 2003**

The New Mexico Department of Labor (NMDOL), the state operational entity for the Workforce Investment Act (WIA), is requesting a waiver to eliminate the 20% limitation on transferring WIA funds between Adult and Dislocated Worker programs. The waiver would provide an unlimited ability to transfer funds between these titles. In granting this waiver, NMDOL will ensure that the critical workforce needs of the local communities are met. NMDOL is requesting that this waiver be granted through through expiration of the current five-year plan.

This waiver request follows the format identified in WIA § 189(i)(4)(B) (29 USCA § 2939(i)(4)(B)) and WIA Regulations at 20 CFR § 661.420(c).

**1. Statutory Regulations to be Waived.** WIA § 133(b)(4) (29 USCA § 2863(b)(4)) and WIA Regulations at 20 CFR § 667.140, provide that with the approval of the Governor, Local Workforce Development Boards may transfer up to 20 percent of a program year allocation for adult employment and training activities, and up to 20 percent of a program year allocation for dislocated worker employment and training activities between the two programs.

In 1999 the New Mexico Legislature enacted legislation pursuant to the WIA establishing NMDOL as the state administrative entity for the program and establishing local workforce development areas. The WIA and its New Mexico counterpart were created to administer a variety of employment and training programs to help adults and youth develop the job skills necessary to meet the occupational needs of employers and the state. That legislation envisioned a statewide workforce investment system made up of a State Workforce Development Board, the four local boards and their service providers. As a result of the State Board's and NMDOL's leadership, New Mexico implemented WIA according to the federal law which was established by the United States Congress. Two years after implementation, all four local boards are conducting oversight of one-stop centers in their areas and are serving clients. The New Mexico WIA program has several underlying principles:

1. A focus on employers to meet the workforce needs of businesses and industries;
2. Locally designed service delivery plans to serve current workers and individuals entering the labor force for the first time; and
3. Integrated services delivery to allow the broadest range of job seekers to access employment assistance.

**2. State or Local Statutory and/or Regulatory Barriers:** There are no state or local regulatory barriers to implementing the waiver. NMDOL regulations and policy statements are in compliance with current federal law. Upon notification of the approval of this waiver, NMDOL regulation and policy will be amended to comply with the terms of the waiver.

**3. Goals to be achieved by the Waiver:** The following goals will be achieved with the grant of the waiver request:

- The ability of Boards to respond to ongoing changes within their local areas will be improved as a result of the flexibility provided by the waiver.
- Local control over program delivery will be increased with the distribution of statewide monies to local boards.
- Collaboration between industry needs and worker training will improve as WIA opportunities are increased in the local areas.
- There will be increased accountability at the state, local and service provider levels with the application of this waiver plan.
- Improvements in designing and implementing WIA programs and in meeting employer and participant needs will be realized by having increased resources available.

**Programmatic Outcomes by the Waivers:** Boards have exercised their option under the law to transfer funds to the extent of the statutory authorization. Because of New Mexico's unique population and industry demographics, size and population diversity, WIA customer needs vary greatly across the state. Under the WIA, dislocated worker funds are to be used for assessment, evaluation and training of individuals adversely affected by plant layoffs in local workforce development areas. New Mexico's population and employment distribution are mainly rural. For example, in March, 2001, there were 45,072 employers reported for all industries covered by state unemployment insurance law, of which over 26,500 of those were units employing four or fewer individuals. Given this distribution of employment, there are few lay-offs or similar events which trigger expenditure of the significant amounts of dislocated worker funds which are required to be set aside. Allowing the waiver would increase flexibility and local control to transfer funds between adult and dislocated worker programs. This flexibility would allow boards to better respond to changes within their areas and to best address the specific

geographic, demographic and industry needs which change from community to community. Permitting the waiver would enable local boards, those with the most knowledge, information and expertise, to most effectively use the limited funds available.

The role of the Boards is to plan, oversee and evaluate the delivery of all workforce training and services in their respective areas through One-Stop centers. Permitting the waiver would encourage Boards to design more innovative programs unique to the specific local areas and to most advantageously use limited funds to address the established needs and priorities. Programs designed according to the specific needs of Boards result in increased local and service provider accountability. NMDOL supports the Boards in each of those areas, and provides continued technical assistance and program monitoring. Granting the waiver will allow NMDOL to continue to meet the challenges of the future by strengthening partnerships, enhancing employer participation and obtaining continued support of local, state and federal leaders.

**4. Individuals Impacted by the Waiver:**

If granted, this waiver will benefit all local WIA Boards, One-Stop centers, employers, job seekers, service providers and all New Mexico communities. The following are additional positive impacts of the waiver:

- Program participants will benefit because Local Boards will have the flexibility to design program based on local needs and priorities.
- Increased utilization of available funds will result in more customers being served.
- Local Boards will have the flexibility to move funds where they are most needed and can provide the greatest benefit.

**5. Process used to Monitor Progress and Implementing the**

**Waiver:** NMDOL fully supports the concepts of consumer choice and program accountability as directed in both WIA and New Mexico's Workforce Development Act of 1999. NMDOL has established a successful monitoring and performance accountability system which is subject to constant and ongoing improvement, which measures results for job seekers and employers using the newly designed system installed by Geosolutions. NMDOL continuously analyzes performance reports and compares actual performance with contract benchmarks. NMDOL will continue to make adjustments to monitoring performance requirements to ensure that performance goals and objectives are met for all WIA adult and dislocated worker expenditures. NMDOL will monitor progress on this waiver by reviewing monthly expenditure and performance reports submitted by Local Boards and from regular attendance by NMDOL at meetings of the Local Boards. Input and data

will also be solicited from Board members, administrative entity staff and One-Stop staff. Provisions in the contracts for the programs funded with statewide activity funds will include specific performance measures which will provide an indication of the positive impact of the waiver.

Notice to Boards: If the waiver is approved, NMDOL, as the State Administrative Entity, will provide notice to the Boards through issuance of STAGs. These issuances will provide information, training and technical assistance to monitor expenditure of funds subject to the waiver. Establishing these systems would occur prior to the effective date of the waiver implementation.

**6. Solicitation of comments from local boards, labor, employers and service providers.** In accordance with WIA Regulations at 20 CFR § 661.420(5)(iv), contemporaneously with the submission of this waiver request, NMDOL is soliciting comment on the advisability of the waiver from Local Boards, employers, labor interests and service providers. Telephonic contact has been made with each Local Board requesting that each provide a specific written statement concerning its position regarding the waiver. Selected service providers, labor and employer representatives have also been contacted telephonically and asked to provide input. In addition, notice of the waiver request has been published on New Mexico's WIA website. Any comments which are received during a thirty day open comment period and provided after this period will be immediately provided to USDOL for use in consideration of the waiver request.